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FILED
Western District of Washington
at Seattle

Judge: Judge Marc L. Barreca
Hearing Location: Room 7106
700 Stewart St
Seattle WA 98101

AUG 26 2013

Hearing Date: August 30, 2013
Hearing Time: 9:30 a.m.

U.S. Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**


In re	CHAPTER 7
ADAM R. GROSSMAN	CASE NO. 10-19817
	CREDITOR'S OBJECTION TO TRUSTEE'S MOTION FOR AN ORDER CONFIRMING THAT REAL PROPERTY IS PROPERTY OF THE ESTATE

I. INTRODUCTION

1. My name is Stephen J. LeBlanc and I write the court to object to the Trustee's motion for an order confirming that the subject real property is property of the estate.
2. I am a creditor of the estate. I object to any pending action or prior action removing me as a creditor. I also was formerly an investor with the Tanager Fund, which may be impacted by these proceedings.


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3. I am not wealthy as I have spent most of my career working on non-profit projects and have been in poor health. My \$25,000 claim represented a substantial portion of my retirement savings and it has been a hardship to me to have lost it.
 4. There has been some confusion created regarding what portion of Tanager Fund investments constituted property owned by the Borodin/Grossman family and therefore what claims can justifiably be made by Ms. Borodin. I believe that I have been harmed as an innocent creditor by this confusion and I believe other innocent creditors have also been harmed.
 5. These creditors are people who were no part of any dispute between Mr. Grossman and Ms. Borodin and whose property has been seized do to confusion created in these proceedings.
 6. I am particularly concerned about the claims of Mr. Lyman Opie and Mr. Peter Zieve. As outlined below, their money in 2010 was clearly independent of Ms. Borodin's finances which became distinct from Mr. Grossman's finances upon entry of separation orders on September 10, 2009. I have known Mr. Opie for decades and I know that his losses in this case are a substantial harm for him. I do not understand why the Trustee and the Trustee's lawyer have not taken more care regarding Mr. Opie's and Mr. Zieve's claims.


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II. BACKGROUND

7. My name is Stephen J. LeBlanc.

8. I am an attorney in good standing in California.

9. I know many of the parties to these proceedings and have known some for decades

10. I have known Mr. Grossman for decades and I developed an independent friendship with his former wife, Jill Borodin. I stayed with them in Seattle several times and they stayed at my home in Oakland both individually and together, both with and without their daughters Alexandra and Naomi.

11. I have known Lyman Opie for decades and have kept in regular contact with him over this time.

12. Based on my relationships with Mr. Grossman and my understanding of the options trading strategy employed by the Tanager Fund, I became the first non-managing investor shortly after the Tanager Fund formation on June 30, 2006, contributing \$20,000 of my retirement savings.

13. I was encouraged by early steady growth in the Tanager Fund, before the Financial Crisis of 2008, and the overall positive returns. However, throughout my involvement as an investor, my primary interest was that the Tanager Fund be successful as a professional venture for Mr. Grossman and that the gains of the fund benefit the Grossman/Borodin family by providing Mr. Grossman with duly earned investment advisor and management fees.

14. I received reports regarding the Tanager Fund and my individual investor account in the fund from 2006 through 2010. The value of my investment fluctuated from a low of about \$19,000 to a high of about \$38,000. These reports were extremely easy to understand and at all times I was aware that the only portion of the Tanager Fund to which I had any ownership interest was the balance reflected in my account, under the name Stephen J. LeBlanc.


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1 15. In September 2010, the value of my Tanager Fund account just above \$25,000. I
2 agreed to make this money available as a loan to Mr. Grossman.

3 16. On information and belief, I am concerned that the Tanager Fund will accrue
4 substantial losses caused by Ms. Borodin, who represented the ownership interest
5 of the Grossman/Borodin family in the Tanager Fund to be much greater than it
6 was.

7 17. Because of my own desire to receive payment on my claim either now or as soon as
8 possible after the conclusion of these proceedings as well as my desire to see other
9 innocent investors receive their money back, I have reviewed relevant documents
10 available to me in my capacity as an investor in the Tanager Fund as well
11 documents that were part of public records in this Court and in King County
12 Superior Court.

13 18. I believe that losses to the Tanager Fund investors created by Ms. Borodin
14 wrongfully claiming investor money can be best understood by the following:

15 19. As of Jan 1, 2010, based upon the Tanager Fund 2009 tax return K-1's prepared by
16 Petersen Sullivan LLP, the Grossman/Borodin family ownership interest in the
17 Tanager Fund was \$225,287. This number is the aggregate balance in three
18 investor accounts in the names: 1. Terrington Davies Capital MGMT LLC, 2. Adam
19 Grossman, 3. Jill Borodin. The 2009 tax returns are available to every investor upon
20 request pursuant to the Tanager Fund agreement. At the share price of the
21 Tanager Fund reported to me (\$1.32) for January 1, 2010 this indicated
22 Grossman/Borodin family ownership of 170,672 shares on Jan. 1, 2010. I have
23 further reviewed the returns and based on information and belief, the remaining
24

25
26 ¹ Excluding an account for each of the two Grossman children valued at \$4,464 each valued at on Jan. 1,
2010.

1 shares were all held by persons not financially connected to any member of the
2 Grossman/Borodin family.

3
4 20. On information and belief, on March 4, 2010, money from the Tanager Fund in the
5 amount of \$229,000 was wired to Placer Title Company to purchase the property
6 located at 868 Montcrest Dr. in Redding, CA.

7
8 21. On information and belief, on May 20, 2010, money from the Tanager Fund in the
9 amount of \$255,000 was wired to Placer Title Company to purchase the property
10 located at 20710 Glennview Dr in Cottonwood, CA.

11
12 22. Ms. Borodin has represented through her attorney of record that these funds of
13 \$484,000 originating from the Tanager Fund were monies in which the
14 Grossman/Borodin family she an ownership interest.

15
16 23. At the time this representation was made and throughout these proceedings,
17 however, she and her attorney knew or should have known that no additional
18 Grossman/Borodin money was deposited with the Tanager Fund, and thus the
19 Grossman/Borodin Tanager Fund investment accounts could not have exceeded
20 170,672 shares at any time during 2010.

21
22 24. At the time of this representation was made and throughout these proceedings, Ms.
23 Borodin and her attorney knew or should have known that there were other
24 investors in the Tanager Fund, as well as creditors to the Tanager Fund, who would
25 be harmed if she claimed cash distributions or Tanager Fund property as her
26 family's property.

² Note: there were no investment deposits into the Tanager Fund that in any way involved or were the property of Ms. Borodin and her family during 2010. There were no deposits or capital contributions to the Tanager Fund by any investor during 2010 – unsurprising after the likely closing of the fund had been announced early in the year.

- 1 25. To the best of my knowledge, Ms. Borodin has never clearly explained how the
2 investment accounts of her family that combined were valued at \$225,287 on
3 January 1, 2010, resulted in cash disbursements of \$484,000 in which she claimed
4 an ownership interest for her family.
5
6 26. On information and believe, it appears to me that Ms. Borodin and her attorney
7 may have created confusion about the nature of Mr. Grossman's business in order
8 to make claims on property belonging to other investors.
9
10 27. Mr. Grossman's business, conducted through The Tanager Fund and associated
11 entities, is in fact very simple. He is an investment advisor and manager. He earns
12 money from this activity in two ways (1) duly earned fees he receives as a result
13 from the management of other people's money, and (2) capital gains on his
14 families investment money that he also manages. This activity financially
15 benefited the Grossman/Borodin family throughout the marriage.
16
17 28. Ms. Borodin and her family are due a proportional share of the partnership
18 distributions based on the 170,672 shares held at the Tanager Fund as of January
19 1, 2010, plus any additional shares purchased subsequently, if any, but not any
20 more that this amount.
21
22 29. During 2010, the opening share was \$1.32 and during the year rose and fell until
23 the fund closed active trading operations as previously announced on November
24 30, 2010. On information and believe, the closing price was \$1.24 on that date.
25 The value of 170,672 shares on January 1, 2010, at \$1.32/share was \$225,287
26 and the value upon closing at \$1.24/share was \$211,633. Ms. Borodin should not
benefit from claiming that \$484,000 of Tanager Fund monies used to purchase the
two houses described above, were Grossman/Borodin family money when this


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1 claim is at the expense of other investors and based on proceedings to which I nor
2 most other investors were not a party.

3 30. I genuinely wish her the best and would like to see her get as much money she is
4 entitled from the Tanager Fund but not at my expense and the expense of other
5 investors. She makes more money than I do. Why should I be expected to incur
6 losses so that she can receive disproportionately higher returns?
7

8 I RESPECTFULLY REQUEST OF THE COURT.

9
10 31. Do not take the property at the property located at 868 Montcrest Dr. in Redding,
11 CA. from investors.

12
13 32. Continue this hearing if necessary to ask for whatever information the court would
14 like to see to resolve the equitable ownership of that property.

15
16 33. Continue to allow accountants to prepare the financial statements.

17
18 34. Carefully review the actions and expenses of the Trustee and Attorneys and limit
19 expenses to the fullest extent allowed by law.
20

21 Pursuant to 28 U.S.C. § 1746, I declare to the best of my knowledge and under penalty of
22 perjury that the foregoing is true and correct.

23
24
25 
Dated this 27th day of August, 2013

26 Stephen J. LeBlanc